Human Rights Commission

ANNUAL REPORT

2001/02

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Taking Responsibility for Human Rights

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Message from the Chief Commissioner

Taking Responsibility for Human Rights

The year 2001/02 has been a year of significant human rights challenges, both globally and at home in British Columbia. Few British Columbians would claim not to have been impacted by the September 11, 2001 tragedy in New York. We continue to share in the aftermath: loved ones have been called into military duty overseas; we face greater security costs and delays if we travel; and some face increased intolerance simply because they look, dress or sound Muslim or of Arab origin. Above all, the need for all of us to take responsibility to counter intolerance and xenophobia has increased.

In British Columbia, the year also brought new challenges to the human rights structure itself. Two of our commissioners, Chief Commissioner Mary-Woo Sims and Commissioner of Investigation and Mediation Mary Beeching, are no longer with the Commission and have not been replaced. Reviews of both the core functions and structure of the Commission are under way. In preparation for a 2002/03 budget that is reduced by 32% over last years budget the Commission was required to reduce the number of staff available to carry out our mandate. We are currently awaiting the provincial government's conclusion of its review and introduction of legislative changes this spring.

Despite the challenges we faced, the Commission accomplished a great deal this year. These accomplishments would not have been possible without the dedication, integrity and expertise our staff bring to their work. I am truly thankful for the commitment our staff have continued to demonstrate in the face of uncertainty. Their ongoing efforts to deliver relevant and accessible services to British Columbians are to be commended.

In 2001/02, our staff responded to over 19,000 telephone, e-mail and Web site inquiries seeking information about human rights; were speakers at numerous community events and training sessions; and met with groups from all sectors of society. We continued to reduce the processing times for complaints received at the Commission, many of which were resolved through mediation and settlement discussions. We also closed more files than were opened.

Specific Commission projects over the year focused on youth, employment, race based complaints, early mediation, education equity for aboriginal learners, and community education partnerships. In addition, through the office of the Deputy Chief Commissioner, the Commission was involved in a number of significant court and tribunal decisions. These initiatives and decisions are discussed in detail throughout this report.

The Commission was also active at the national level. As a member of the Canadian Association of Statutory Human Rights Agencies (CASHRA), we joined other commissions to intervene at the

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Supreme Court of Canada in the Gosselin case. The case will determine whether Quebec regulations on social assistance infringe on equality rights, or violate the right to security of the person, by reducing the benefits paid to people aged 18 to 30. It is likely the case, which has yet to be decided, will have an impact on how provincial governments design their social safety nets.

The Commission also presented a brief to the Standing Senate Committee on Human Rights. The Committee subsequently released its first report, *Promises to Keep: Implementing Canada's Human Rights Obligations*. The Report recommends social condition be included as a prohibited ground of discrimination in human rights legislation. This is an issue of ongoing concern at the BC Commission, and one that will increase in importance as the impact of government restructuring and restraint is felt in BC.

The report emphasizes Canada's need to address our current human rights laws' inability to fulfill the international covenants signed at the United Nations. While all levels of government must cooperate and take steps to meet these covenants, provincial governments can lead the way.

International commitments are of particular importance to the pending changes to the provincial *Human Rights Code*. International human rights standards are an important source of interpretation for human rights law in Canada. It is our hope and expectation that these standards, particularly those contained in the *Paris Principles* (see box at right), will guide the provincial legislature as it implements its changes. An effective mechanism for promoting human rights and providing remedies when they are violated must continue to be accessible to all British Columbians.

The provincial government's December 2001 Human Rights Review discussion paper notes, "protecting and advancing human rights in our society is a continuing challenge." Recognizing that all British Columbians share in the responsibility to end discrimination and that the Commission's ability to fulfill its mandate has been reduced by budget cuts, the challenge is one that we will continue to strive to meet. We will remain vigilant in ensuring all British Columbians can exercise their right to live free from discrimination.

Harinder Mahil
Acting Chief Commissioner
April 16, 2002

International Principles for Effective Human Rights Commissions:

The "Paris Principles",* endorsed by the United Nations General Assembly in 1994, provide minimum standards on the status and advisory role of human rights commissions. The Paris Principles require that state human rights agencies have:

- Independence guaranteed by statute or constitution.
- Autonomy from government.
- Diverse membership.
- A broad mandate based on universal human rights standards.
- Adequate powers of investigation.
- Sufficient resources.

Human rights agencies must remain independent and arms length from government to:

- Act as a watchdog over our fundamental rights to be treated with dignity and without discrimination.
- Speak out on important human rights issues.
- Ensure complaints filed against government are dealt with fairly.
- Advocate human rights protection for marginalized groups, such as the poor, transgendered people, those living with AIDS/HIV, drug and alcohol addicted people and others often ignored in society and forgotten by government.
- Educate the public on the impacts of discrimination and challenge stereotypical assumptions and systemic barriers to equality.

**Principles relating to the status and functioning of national institutions for protection and promotion of human rights, UN General Assembly Res. 48/134 (4 March 1994).*

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Commission Activities Report

Introduction

During 2001/02 significant reviews of both the core functions and structure of the Commission were initiated by the provincial government. To prepare for anticipated changes, a number of planned initiatives were curtailed or downsized. Despite operating in a environment of uncertainty, the Commission carried out many exciting and innovative projects, aimed at achieving equality and eliminating discrimination.

Compliance Program

The compliance program had a productive year both in terms of case processing and the implementation of new initiatives. The Commission closed 903 cases last year, an increase of 167 cases or 22% over the previous year. As a result, the inventory of open cases fell by 78 cases or 13% to 569 cases, its lowest level in ten years. The Commission also settled 173 cases last year, an increase of 60 cases or 50% over the previous year. These improvements are the result of the Commission moving away from using investigations as the primary case processing approach and instead using a range of tools to better manage all complaints to a satisfactory resolution. Extra emphasis was placed on mediating cases prior to filing a respondent reply; mediating cases where the investigation report recommended that the case be referred to the Tribunal; and recommending the dismissal or referral of a case based on written submissions. We also used an expedited disposition process, which is a fact finding meeting followed by a decision, to dismiss or refer the case within seven days.

New initiatives implemented by the compliance program included a seven month early mediation pilot project and a new employer/service provider information line. The early mediation project is discussed further on page 8 of this report.

Employer Advisor

The Commission set up a telephone line for employers and service providers to get specialized information to assist them in proactively dealing with human rights issues. The Commission appointed a human rights officer to act as the employer advisor. The employer advisor has received an average of 150 telephone and e-mail enquires per month dealing with issues such as developing harassment policies and accommodating customers with disabilities. The feedback from the community has been positive.

Public Interest Program

The Public Interest Program made significant contributions to promoting human rights and eliminating discrimination through landmark cases that have set legal precedent for BC and, in some cases, the entire country.

Important cases where the Deputy Chief Commissioner was a party in 2001/02 include the BC Human Rights Tribunal's ruling in *Gill and Maher; Popoff and Murray v. Vital Statistics Agency*. This is the first Canadian ruling to confirm that the failure to allow for the registration of same-sex parents on their child's birth certificate is discriminatory and cannot be justified (see page 5). The Tribunal ruling of *Nixon v. Vancouver Rape*

Relief is another first Canadian ruling and entitles a transsexual woman to equal access to the service and employment opportunities provided by a women-only non-profit group (see page 9).

We are awaiting a decision in the first of the home care challenges, the *Hutchinson v. Ministry of Health* case. That hearing, which ended on February 1, 2002, will determine whether the government's policy of refusing to compensate family members who provide continuing care services to their relatives with disabilities, regardless of the circumstances, is justified.

The Public Interest Program also finalized a number of systemic settlements. Systemic settlements occur in cases where the parties agree that developing and implementating policy, undertaking independent assessments of workplaces or implementing education and training programs are appropriate ways of resolving a complaint and preventing further complaints. As a result of one such case, the Office of the Superintendent of Motor Vehicles has agreed to undertake a review of the process applied to drivers with disabilities. The Ministry of Child and Family Services also implemented a policy to train staff to address racial and other biases that may impact their work. (see pages 7 and 15)

We continued to take an active role in monitoring, providing assistance and approving special programs under section 42 of the *Code*. This provision enables groups and organizations that wish to implement an employment equity program or other special programs to obtain prior approval from the Commission (see page 14). The Public Interest Program also undertook a major project to focus on the factors that create barriers to the full participation of Aboriginal students in the public education system (see page 8). The strides the Public Interest Program was able to take in furthering human rights have benefited many British Columbians.

CASE STUDY

Vital Statistics Ordered to Stop Discriminating Against Same-Sex Couples

Case: In August 2001, the Human Rights Tribunal ordered the Vital Statistics Agency to amend its standard birth registration form to allow for joint registration by non-biological parents who assume social and legal responsibility for their child from birth.

Details: The Tribunal concluded that the equality rights of two lesbian couples and their children were violated when the Agency refused to allow the non-biological co-mother in each family to have their names on their child's birth registration. In upholding the complaints of Bren Murray and Karen Popoff and Verna Gill and Peggy Maher, the Tribunal wrote:

> The process of registering births, upon which birth certificates are based, is based solely on a heterosexual view of the family. Because the complainants are women living in same sex relationships who have a child together, they can only establish families through the adoption process. This differential treatment to access to a process that confers a benefit offends the principles of equality on the basis of sexual orientation, family status and sex.

The Tribunal decided there was no justification for denying the complainants the advantages enjoyed by other holders of birth certificates, such as proof of a relationship to the child, the right to register the child in school, the ability to obtain airline tickets and passports, and the ability to assert the child's rights under various laws.

Result: The BC government is challenging the Tribunal's authority to order the amendment in the BC Supreme Court. The Commission's Deputy Chief Commissioner will respond to that application.

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Commission Activities Report

Education Program

The promotion and protection of human rights is a responsibility shared by all British Columbians. The Commission can not prevent and eliminate discrimination on its own. We recognize the need to partner with other government and community organizations to maximize the impact of educational initiatives. This year our educational initiatives have targeted diverse sectors of the community and regions of the province.

YOUth Act Now - End Discrimination

Empowering and encouraging youth to take action against discrimination in their schools and communities was the goal of the Commission's new YOUth Act Now – End Discrimination campaign.

The campaign, which replaced the Commission's visual and language arts program, invited youth throughout BC to send in proposals for projects that address discrimination. The Commission changed the program to increase outreach to youth around the province and to provide local communities and schools with resources.

This year the Commission moved away from organizing one or two large events in selected communities allowing for more human rights activies led and developed by youth throughout the province. It was encouraging to see youth come up with innovative ideas and partner with others.

"For a relatively small amount of seed money you were able to foster an experience that many benefitted from," explained one project organizer.

In addition to funding projects, the Commission produced a guide that provides examples of anti-discrimination activities. A copy can be found on our Web site **www.bchumanrights.org**.

The Commission received approximately 100 applications for funding.

YOUth Act Now projects

'Take a Stand' Play,
Argyle Secondary School, North Vancouver

Cultural Mosaic Day,
Babine Elementary Secondary School, Granisle

Ending Racism in Bamfield (PSA's),
Bamfield Community School

Anti-Discrimination Film Week,
Burnside George Community Association, Victoria

'A December in Our Town' Play,
Coquitlam River Elementary, Coquitlam

Anti-bullying Video Skit,
Youth Program, DeltaAssist Community Services, Delta

Diversity – The Film Festival,
Kamloops Youth Resources - Safe Spaces, Kamloops

Celebrating Diversity Conference,
Keith Lynn Alternate School, North Vancouver

'Narrow Ladders' play,
Lower Fraser Valley Aboriginal Society, Aldergrove

Diversity Day Scavenger Hunt,
Mt Baker Secondary School, Cranbrook

Gay Rights are Human Rights Activities,
Pinetree Secondary School, Coquitlam

Human Rights Expo,
Sexsmith Community School, Vancouver

What is Discrimination Calendar,
South Cariboo Community School, 100 Mile House

Witness Assistance Program Training,
West Sechelt Elementary School, Sechelt

promote

Community Partnerships

By working in partnership with community groups and service providers, the Commission is able to reach out to diverse communities around the province. The following are some of the activities the Commission participated in or supported:

- **Anti-Harassment Workplace Training**, United Steelworkers Union.
- **Anti-Racism Online: Youth Action 2001**, Canadian Anti-Racism Education and Research Society.
- **Check Your Booty II Conference**, Dallas Society, Victoria.
- **Neighbourhood Friends Project – Children's Education**, Autism Society of BC.
- **Trans Inclusion Policy Manual for Women's Organizations**, Trans Alliance Society and the Women/Trans Dialogue Planning Committee.
- **Vancouver Society for the First North American Conference on Bisexuality, Gender, and Sexual Diversity.**
- **We Act, Women Elders in Action Conference,** Senior's Summit, Vancouver.

Community Education Project

In recognition of our commitment to work with communities beyond Vancouver and Victoria, the BC Human Rights Commission has funded human rights workshops in communities around British Columbia for a second year, in partnership with the Canadian Human Rights Commission, the Canadian Jewish Congress, Immigrant and Visible Minority Women (BC), and the Affiliation of Multicultural Societies and Service Agencies of BC. Workshops were delivered in Merritt, Campbell River and Mission with the support of Mission Community Services, Campbell River & Area Multicultural and Immigrant Services Association, and the Kamloops Cariboo Immigrant Services Society.

Evening workshops for the general public provided an overview of the *Human Rights Code*, the commission, and the complaint process. More detailed, full-day workshops were delivered to community activists, advocates, and small business owners. In addition to providing information, the workshops invited participants to discuss community-based and workplace based responses to discrimination and prevention initiatives.

CASE STUDY

Taking Responsibility for Our Youth

Case: Parents, guardians and other adults in positions of trust have a responsibility to help children and youth interact appropriately in society and accept and respect differences among people. A young person's bias is supported and reinforced when not challenged.

Details: Last year the Ministry of Children and Families undertook an anti-racism education initiative as part of the settlement reached with the Commission. On August 27, 2001, the Ministry advised all Ministry workers about a new guideline on how to respond to discriminatory bias expressed by children or youth in the Ministry's care.

The guideline confirms that workers who have guardianship responsibilities for a child or youth in the Ministry's care are responsible to take action if discriminatory bias is expressed. It also advises staff of what they must and can do to respond. Steps that may be taken include:

- Advising that the bias is offensive.
- Identifying the reason for the bias and responding as needed.
- Identifying the impact on others, e.g. hurt feelings and unfair treatment.
- Explaining the legal protections provided by the *Human Rights Code*.
- Raising awareness and teaching the value of differences among people.
- Reinforcing that it is not acceptable to tease or reject a person based on their personal situation or characteristics.
- Referring the child or youth to a counsellor, if needed.

Result: In addition to resolving a complaint of racial discrimination by a youth toward an adult counsellor, the Ministry's guideline equips staff to deal with peer on peer harassment.

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Project Profiles

Effectively Dealing with Race Discrimination Complaints

Dealing with race discrimination complaints effectively is a challenge for human rights commissions across Canada. And we are no exception in British Columbia. In 1999 the Commission established a race complaints committee to respond to community concerns that race discrimination complaints are not handled effectively. The committee implemented a number of initiatives to improve the Commission's handling of race discrimination complaints.

In fiscal 2001/02 two phases of a community education project, supported by the Ministry of Multiculturalism and Immigration, were undertaken. In phase one, focus groups of community service providers were conducted to identify the skills needed in community organizations to support individuals who experience racism and file human rights complaints. Phase two of the project entailed the development of a training package for community service providers. Implementation of the final phase of the project, community based workshops, is planned for this year.

Aboriginal Education - Pathways to Equality

For aboriginal communities equal education is a critical step to overcoming historical disadvantages, rebuilding and maintaining nations and renewing cultures. Last year the Commission embarked on a project to examine the barriers to aboriginal students in the public education system. With an average of only 38 per cent of aboriginal students graduating from grade 12 compared to 77 per cent of non-aboriginal students, aboriginal organizations urged the Commission to examine this issue as a violation of fundamental human rights.

The Commission produced two reports which identified critical barriers to the success of aboriginal students. These reports were produced in preparation for public hearings on aboriginal education planned for last fall. The hearings were suspended when the government announced its review of our structure and process. Copies of the reports, *Barriers to Equal Education for Aboriginal Learners - A Review of the Literature* (May 2001) and *Aboriginal Education: Pathways to Equality - A Discussion Paper* (June 2001) are available on the Commission's Web site **www.bchumanrights.org**.

Early Mediation Project

The early mediation project is a partnership project of the UBC Law School, the Ministry of Attorney General Dispute Resolution Office and the Commission. The partners chose to offer the parties mediation at a very early stage in the case management process to quickly resolve disputes with the least cost to all participants, including the Commission. In this project, mediation is attempted after the Commission has accepted a complaint but before the respondent has filed a reply. This is earlier in the process than in comparable jurisdictions such as Ontario and Alberta.

The Commission staffed the project with 3.5 human rights officers and a project manager. The mediators were successful in resolving 114 of 168 cases (68%) where mediation was attempted. On

average these cases were resolved in three months compared to the Commission's average case processing time of 9.2 months for the fiscal year. The project has helped the Commission enhance staff mediation skills; identify cases appropriate for early mediation; and create a resolution based approach to case management.

Removing Barriers for Transgendered People

In 2001/02 the Commission continued to support the work of the Women/Trans Dialogue Planning Committee and the Trans Alliance Society. These groups were formed to increase dialogue between transgendered people and organizations serving women, and to heighten general understanding of the discrimination faced by transgendered people in British Columbia. The groups have developed and distributed a number of important new resources that aim to expose and eliminate the negative stereotypes, barriers and discrimination that exist in our province against transgendered people.

New resources include:

- *The Trans Biography Project: Stories from the Lives of Eleven Trans People in BC.*
- *Trans Inclusion Policy Manual For Women's Organizations*, aimed at helping organizations to implement policies that promote inclusion and the removal of barriers to participation for transgendered people.
- Curriculum modules on transgendered issues developed in partnership with the Justice Institute for corrections, criminal justice and social services sectors.

CASE STUDY

Decision Clarifies Equality Rights of Transsexual Women

Case: In its first decision in 2002, the BC Human Rights Tribunal ruled that a transsexual woman was denied her right to equal treatment when a non-profit women's agency refused to allow her to volunteer as a rape crisis relief worker.

Details: Kimberly Nixon is a post-operative male-to-female transsexual. She was told she could not volunteer with the Vancouver Rape Relief Society because she had not been a woman since birth. Nixon filed a complaint with the BC Human Rights Commission alleging the agency's refusal to allow her to continue in a training program for volunteers violated her right to equal treatment under the *BC Human Rights Code*.

The Commission's Deputy Chief Commissioner supported Nixon's complaint before the independent Tribunal. The Commission did not challenge the agency's right to offer services and volunteer opportunities to women only, but questioned their definition of women, which was not inclusive of transsexual women.

The Tribunal ruled Nixon was excluded from the training program solely because she is a transsexual woman. By making a distinction between Nixon and other women based on a personal characteristic, Rape Relief failed to take into account her disadvantaged and marginalized position within society. The Tribunal member wrote that "they applied their stereotypical view that, despite her self-identification as a women, and her legal status as one, she was not a woman so far as they were concerned."

Result: The ruling reaffirms that assumptions about transsexual women should not exclude them from acceptance as women in all facets of their lives. Nixon was awarded $7,500 for injury to dignity, the highest award a Human Rights Tribunal has made to date in British Columbia.

average these cases were resolved in three months compared to the Commission's average case processing time of 9.2 months for the fiscal year. The project has helped the Commission enhance staff mediation skills; identify cases appropriate for early mediation; and create a resolution based approach to case management.

Removing Barriers for Transgendered People

In 2001/02 the Commission continued to support the work of the Women/Trans Dialogue Planning Committee and the Trans Alliance Society. These groups were formed to increase dialogue between transgendered people and organizations serving women, and to heighten general understanding of the discrimination faced by transgendered people in British Columbia. The groups have developed and distributed a number of important new resources that aim to expose and eliminate the negative stereotypes, barriers and discrimination that exist in our province against transgendered people.

New resources include:

- *The Trans Biography Project: Stories from the Lives of Eleven Trans People in BC.*
- *Trans Inclusion Policy Manual For Women's Organizations*, aimed at helping organizations to implement policies that promote inclusion and the removal of barriers to participation for transgendered people.
- Curriculum modules on transgendered issues developed in partnership with the Justice Institute for corrections, criminal justice and social services sectors.

CASE STUDY

Decision Clarifies Equality Rights of Transsexual Women

Case: In its first decision in 2002, the BC Human Rights Tribunal ruled that a transsexual woman was denied her right to equal treatment when a non-profit women's agency refused to allow her to volunteer as a rape crisis relief worker.

Details: Kimberly Nixon is a post-operative male-to-female transsexual. She was told she could not volunteer with the Vancouver Rape Relief Society because she had not been a woman since birth. Nixon filed a complaint with the BC Human Rights Commission alleging the agency's refusal to allow her to continue in a training program for volunteers violated her right to equal treatment under the *BC Human Rights Code*.

The Commission's Deputy Chief Commissioner supported Nixon's complaint before the independent Tribunal. The Commission did not challenge the agency's right to offer services and volunteer opportunities to women only, but questioned their definition of women, which was not inclusive of transsexual women.

The Tribunal ruled Nixon was excluded from the training program solely because she is a transsexual woman. By making a distinction between Nixon and other women based on a personal characteristic, Rape Relief failed to take into account her disadvantaged and marginalized position within society. The Tribunal member wrote that "they applied their stereotypical view that, despite her self-identification as a women, and her legal status as one, she was not a woman so far as they were concerned."

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Human Rights Complaints Process

Filing a Complaint

When a person feels they have been discriminated against, they can contact our office to file a complaint. A Complaints Analyst will tell the person if their complaint is covered by the *BC Human Rights Code* and explain the process of how to file a complaint. If the complaint is not something the Commission can help with, the person may be referred to another agency.

Screening of Complaint

Once a complaint has been received and a file created, it is assigned to a Human Rights Officer. Sometimes the complaint may be dismissed after the Officer has reviewed it more closely. The complaint may also be dismissed after it has been sent to the person alleged to have committed the discrimination (the respondent) and their response has been reviewed by the Officer.

Early Resolution/Mediation

As a first step, the Officer will contact both the person who filed the complaint and the respondent to discuss how the complaint may be resolved, either by negotiation or mediation. The Officer does not set the terms of settlement or provide legal advice, but is available to act as a mediator or relay terms of negotiation between the complainant and respondent. Once the parties have agreed to and signed the terms of settlement, the file is closed.

Investigation

If the complaint is not settled between the parties, the officer may investigate the complaint. In an investigation, the Officer gathers information from the parties such as witness statements, letters, records of employment and medical records. The Officer writes a report and recommends to either dismiss the complaint or refer it to the Human Rights Tribunal for a hearing. The parties receive a copy of the report and can submit more information. The report and the information submitted is then reviewed by the Commissioner of Investigation and Mediation (or the Commissioner's delegate) who decides to dismiss the complaint or refer it to the Human Rights Tribunal.

Reconsideration

If either party believes an error has been made, they can bring their concern to the attention of the Commission. To ask for a reconsideration, the party must write to the Commission within 30 days of the date of the letter of decision and explain the errors. Reconsideration is not intended to re-judge a decision or re-investigate a complaint, but to clear errors, unfairness, or injustice.

Other Information

Throughout the complaints process parties are not required to have a lawyer, but may wish to hire one at their own cost. Parties who are mediating or negotiating a settlement may want to contact the Lawyer Referral Service at 604-687-3221 or 1-800-663-1919.

BC Human Rights Tribunal

Hearings are conducted by an independent agency called the BC Human Rights Tribunal. When a complaint is referred to the Tribunal, they will contact the parties and tell them what they need to do to prepare for the hearing. Cases that are settled or successful at Tribunal can result in: a letter of apology, money for lost wages and injury to dignity and self-respect or getting the apartment, service, job or whatever was denied due to discrimination.

Complaints Process

Complaint received

- Complaint is **not accepted**
- Complaint is **accepted, file is opened**
  - Complaint **dismissed upon further review**
  - Parties agree to **mediation or negotiation**
    - Complaint is **settled**
    - Complaint **not settled, proceeds to investigation**

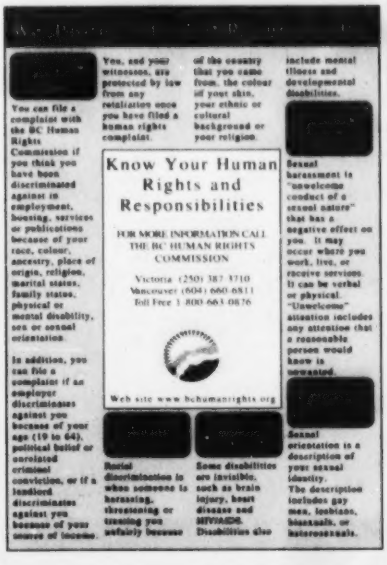
Investigation report with recommendation is sent to parties

- Complaint **dismissed**
- Complaint **referred to Tribunal**

We Protect Human Rights in BC

Know Your Rights and Responsibilities

This poster was distributed to Chamber of Commerce offices, government agents and law enforcement agencies throughout the province. Copies are available by contacting the Commission.


Know Your Human Rights and Responsibilities
FOR MORE INFORMATION CALL THE BC HUMAN RIGHTS COMMISSION
Victoria (250) 387-5510
Vancouver (604) 660-6511
Toll Free 1-800-663-0876
Web site www.bchumanrights.org

CASE STUDY

Anti-Hate Propaganda Provision Constitutional

Case: Former newspaper columnist Doug Collins lost a second bid to have section 7(1)(b) of the *Code* (the anti-hate propaganda provision) ruled unconstitutional.

Details: In 1999, the BC Human Rights Tribunal ruled that four columns, which were written by Doug Collins and published by the North Shore News, were likely to expose Jewish persons to hatred or contempt because of their race, religion or ancestry contrary to the anti-hate propaganda provision. Collins and the paper were ordered to pay complainant Harry Abrams $2,000 as compensation for injury to his dignity, feelings and self-respect. North Shore News was required to publish a summary of the decision and, along with Collins, required to stop publishing statements that expose Jewish persons to hatred and contempt.

Collins went to the B.C. Supreme Court, asking for a declaration that section 7(1)(b) is unconstitutional. The Court declined to consider that question and sent the case back to the Tribunal. An appeal by Collins was dismissed by the BC Court of Appeal and in August, 2001, the Supreme Court of Canada refused to grant him leave to have a hearing before that Court.

Result: The Tribunal hearing continued. On November 30, 2001 the Tribunal decided Collins had not established that the 1999 order contravened his right to free expression under s. 2(b) of the *Charter of Rights and Freedoms*. This was the same decision reached by another Tribunal member in 1997 on the constitutionality of this section of the *Code*.

Collins' estate is seeking to have this decision reviewed.

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Human Rights You are Protected
Sexual Harassment and Human Rights
Racism and Human Rights
Disability and Human Rights

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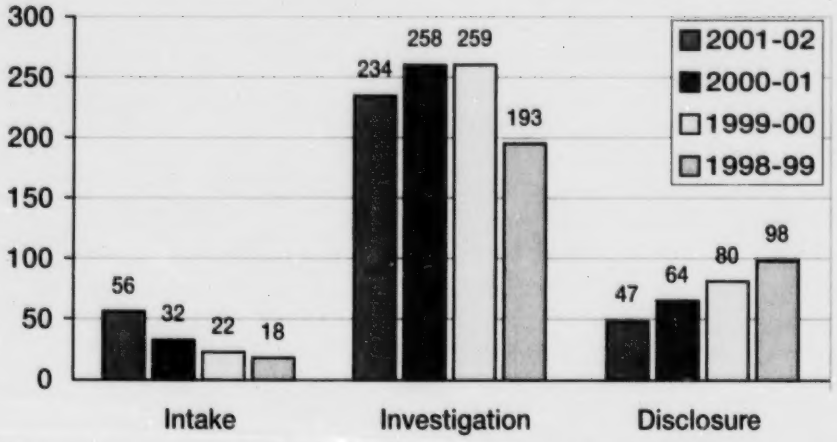
Statistics for 2001/02

Complaints by Region

Region	Number*	Percentage
A The North	1	0.1%
B Skeena	20	2.5%
C Prince George Area	46	5.7%
D Cariboo	6	0.7%
E Squamish/Kamloops	22	2.7%
F Okanagan	60	7.4%
G Kootenays	14	1.7%
H Rocky Mountains	15	1.8%
I Lower Mainland	451	55.4%
J Sunshine Coast	3	0.4%
K Vancouver Island	176	21.6%
Total Complaints	814	

*New complaints opened in 2001/02
*New files opened were 816; however, 2 were opened out of BC and do not appear in the table

Median Processing Time

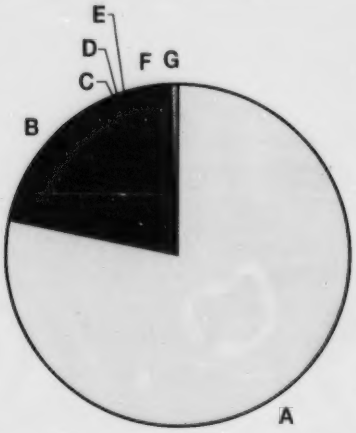


INTAKE the number of days between the case being filed to being assigned to investigation

INVESTIGATION the number of days from being assigned to an investigator to referral to the Commissioner of Investigation and Mediation for decision

DECISION the number of days the Commissioner of Investigation and Mediation (or a delegate) takes to receive submission, cross-disclose submissions where necessary, review the file and make the decision

Distribution of Complaints

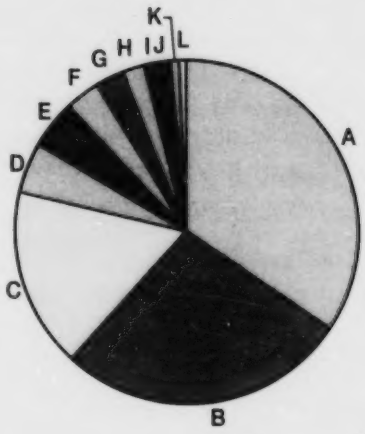


Complaint Area	Number*	Percentage
A Employment	820	78.5%
B Public Services	159	15.2%
C Publications	2	0.2%
D Property	2	0.2%
E Retaliation	13	1.2%
F Tenancy	40	3.8%
G Unions/Associations	9	0.9%

*One case can include several complaint areas

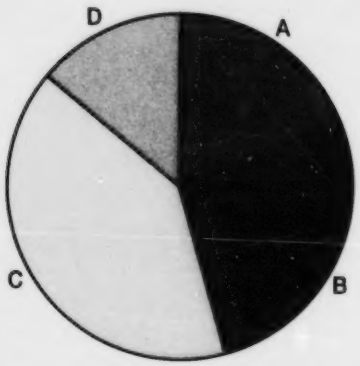
Why Complaints Were Filed (Grounds)

Grounds	Number*	Percentage
A Mental & Physical Disability	344	34.1%
B Sex	283	28.0%
C Race, Ancestry, Colour, Place of Origin	167	16.5%
D Family Status	47	4.7%
E Age	46	4.6%
F Religion	34	3.4%
G Marital Status	27	2.7%
H Sexual Orientation	22	2.2%
I Retaliation	13	1.3%
J Criminal Conviction	12	1.2%
K Source of Income	9	0.9%
L Political Belief	6	0.6%



*Total number of allegations exceeds the number of complaints filed because one case can include several grounds of discrimination

Outcomes for Complaints Closed in 2001/02



Grounds	Number*	Percentage
A Settlements	173	19.2%
B Dismissals - Prior to Investigation	239	26.5%
C Dismissals - After Investigation	367	40.6%
D Referred toTribunal	124	13.7%

*In 2001/02 the Commission closed a total of 903 cases

The Commission employed 47 fulltime equivalent staff members and operated on a budget of $ 4,685,000 for fiscal 2001/02

M121

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Special Programs Approval

Special programs are used to remove barriers that restrict the ability of groups that experience historical disadvantage to participate fully in society. Programs approved in 2001/02 included:

University of Victoria

The university received approval for the next five years of its employment equity program.

School District #73 (Kamloops/Thompson)

The Kamloops/Thompson School District received approval this year for its special program to restrict hiring for all First Nations Support Workers to qualified candidates of Aboriginal ancestry. The percentage of Aboriginal staff is significantly less than the 12.5% of students who are Aboriginal in this district. The First Nations Support Workers provide academic, cultural and emotional support and advocate for Aboriginal students.

Polaris Employment Services Society

Polaris Employment Services Society is a non-profit organization based in Burnaby that assists people with developmental disabilities to find and keep employment. Polaris was granted permission to limit hiring to applicants with developmental disabilities into the positions of Junior Office Clerk/Self Advocate and Junior Office Clerk.

City of Coquitlam

The City of Coquitlam filed its second annual Gender Equity Report in September, 2001. In 1999, the municipality agreed to implement a 10 year program to address sex-based systemic discrimination and to increase the female participation rate in sports and physical activities. In its 2000 report, increases in young female (ages 0-17) participation rates were as high as 27.7% over 1999.

Calendar of Human Rights Days

February
Black History Month

Third Week in February
BC Multiculturalism Week

March 8
International Women's Day

March 21
International Day for the Elimination of Racial Discrimination

May
Asian Heritage Month

First Week of June
National Access Awareness Week

June 21
National Aboriginal Day

First Sunday in August
Gay and Lesbian Pride Day

August 9
International Day of the World's Indigenous People

October
Women's History Month

October 1
International Day of Older Persons

October 17
International Day for the Eradication of Poverty

November 16
UNESCO International Day for Tolerance

November 20
Universal Children's Day

November 25
Day for Elimination of Discrimination and Intolerance Based on Religion or Belief

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World AIDS Day

December 3
International Day for Disabled Persons

December 6
National Day of Remembrance and Action on Violence Against Women

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CASE STUDY

Tribunal Rulings Set Clear Guidelines for Government Disclosure

Case: Two rulings of the BC Human Rights Tribunal clarify the provincial government's obligation to provide complete disclosure in human rights matters.

Background: In the *Hutchinson* case, the Tribunal agreed with the Commission's Deputy Chief Commissioner that the Ministry of Health should be required to disclose the factual and legal basis for the defences it will raise at the hearing. The Tribunal ruled that a fair and efficient hearing means the parties have notice of the response to the complaint and any defences that will be raised. "No party should be taken by surprise at the hearing and a party should not be able to fundamentally change his or her position as the hearing progresses," wrote the Tribunal member.

In the second case, the Tribunal refused to allow the government to rely on documents because it had failed to disclose them before the hearing. The case involves a complaint by Lyn Platz alleging the Ministry of Children and Families discriminated against her because it was perceived she had a mental disability. Platz's contract as a foster parent for over 25 years was terminated in 1997.

After Platz closed her case, the Ministry produced 24 documents, of which 17 had not been provided to Platz. The Tribunal found that the Ministry had breached a previous order for disclosure of documents, which was deliberate and inexcusable.

Result: These rulings confirm the Tribunal will be vigilant in ensuring that hearings before it are fair to all parties.

CASE STUDY

Motor Vehicles Superintendent to Review Medical Assessment Process

Case: In a settlement with the Deputy Chief Commissioner and complainant James Hensman, the Office of the Superintendent of Motor Vehicles agreed to review the medical examination form used for drivers in British Columbia.

Details: BC's Superintendent of Motor Vehicles is responsible to set and enforce standards of medical fitness for drivers.

The settlement is the next step in the Superintendent's efforts to ensure human rights concerns are recognized along with public safety interests in the licensing process. In July 2000, a new Driver's Medical Examination form was introduced for Class 5, 6, 7 and 8 driver's licenses. This streamlined version for drivers with disabilities who meet certain eligibility criteria allows them to avoid the expense and time of unnecessary medical examinations.

However, the new process has not removed mandatory vision screening and drivers are still required to cover the costs of medical examinations. The Superintendent's Office has committed to taking steps to determine whether fairer treatment for drivers with disabilities is an option in either of these areas.

Result: Review of the mandatory vision screening requirement and the general review are to be completed by March 31, 2003.

Commission in Transition

In March 2002, the Commission implemented a streamlined interim structure eliminating our Corporate Services, Public Interest, and Education and Communication programs. The Commission now has two program areas: the Compliance Program and the Legal, Education and Policy Program. Some of the functions performed by the Public Interest and Education programs will continue, but resource limitations have changed the way those functions will be carried out and the number of initiatives that can be developed. These changes were necessary to meet our reduced budget and staff positions.

Under the new Commission structure, all Commission staff will take responsibility for raising and addressing public interest issues. For example, staff are expected to place increased emphasis on addressing public interest components in settlements such as implementing policies and training. During investigations, human rights officers will frame systemic investigation plans to ensure the broader public interest issues are raised and investigated when needed.

The role of the Deputy Chief Commissioner (DCC) in Tribunal hearings will shift in 2002/03. The DCC will continue as a party on investigation files to which that commissioner has already been added, and will be added as a party to the majority of complaints referred to the Tribunal.

The contract between Legal Services Society and the Commission that provided legal aid at Tribunal for all complainants, and respondents who met a means test, has also been terminated. However, in most cases, lawyers for the Deputy Chief Commissioner will be responsible for presenting the complaint, calling evidence and making submissions regarding remedy. This will ensure the public interest in human rights is upheld in the Tribunal hearing process and complainants receive a full hearing and a fair resolution of their cases.

This new role is both consistent with the practice in place in ten other Canadian jurisdictions, and with the B.C. Court of Appeal's March 2002 ruling in Ghinis v. Crown Packaging Ltd. The Court confirmed in that case that the DCC may take positions that are not neutral or impartial, but promote the public interest.

The Commission made many difficult decisions this year in order to adjust to a significant budget reduction and impending changes to provincial human rights laws that will likely alter current structures and processes. We have lost all corporate services program staff positions, policy analyst and communications officer positions and some of our compliance staff positions due to the restructuring process. It has been very difficult to part with colleagues and friends as they leave the Commission. Their dedication and contributions are much appreciated. While reductions have been made to our staff and resources, the demands for more efficient services and community outreach have increased.

We urge the provincial government to ensure that changes to legislation, and new structures and processes are guided by international and domestic human rights standards. In times of change and uncertainty on both a global and local level, it is especially important that all British Columbians remain vigilant in safeguarding their rights, and the rights of others. It is imperative that our society's most marginalized and vulnerable members are protected.

vigilant